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PLEASE RESPOND TO WASHINGTON ADDRESS

September 13, 2016

**VIA ELECTRONIC FILING**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: Notice of Ex Parte Presentation:  
WC Docket No. 15-69, Petition for Limited, Expedited Waiver By Westelcom  
Network, Inc. of Section 61.26(a)(6) of the Commission's Rules

Dear Ms. Dortch:

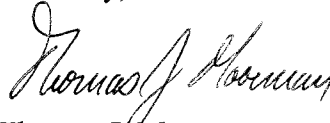
On September 9, 2016, Paul F. Barton, President of Westelcom Network, Inc. ("Westelcom"), along with the undersigned, met regarding the above-captioned matter with: Deena Shetler, Associate Bureau Chief of the Wireline Competition Bureau ("WCB") (via telephone); Thomas Parisi, Counsel, WCB; Pamela Arluk, Division Chief of the WCB's Pricing Policy Division ("PPD"); Victoria Goldberg, Deputy Division Chief of the WCB's PPD (via telephone); John Hunter, Chief Policy Counsel of the WCB's PPD and Edward Krachmer, attorney with the WCB's PPD (via telephone). In addition, James P. Forcier, Chief Executive Officer of Westelcom, Lou Silvestre, Chief Financial Officer of Westelcom, and Ellen Cole, Senior Accountant for Westelcom joined by telephone.

At this meeting, we summarized Westelcom's positions regarding the need for prompt grant of Westelcom's Petition for Limited Expedited Waiver filed in this proceeding for the reasons set forth in the attached document and the filings made by Westelcom in this proceeding. The Company also relayed the adverse operating impact upon Westelcom of the delay in granting the relief outlined in the Petition, as also summarized in the attached document. In addition to distributing and discussing the attached, a preliminary discussion was held regarding potential alternatives to address the issues raised in Petition.

Marlene H. Dortch, Secretary  
Federal Communications Commission  
September 13, 2016  
Page 2

This letter is being filed pursuant to Section 1.1206 of the Commission's rules. Please direct any inquiries regarding this matter to the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas J. Moorman". The signature is fluid and cursive, with the first name "Thomas" being more prominent.

Thomas J. Moorman  
Counsel to  
Westelcom Network, Inc.

Attachments

cc: Deena Shetler (via email)  
Thomas Parisi (via email)  
Pamela Arluk (via email)  
Victoria Goldberg (via email)  
John Hunter (via email)  
Edward Krachmer (via email)



Westelcom Family of Companies

**Ex Parte Presentation  
September 9th, 2016  
Westelcom Network, Inc.  
Pending Waiver Request**

- History of Proceeding and Status
- Current Situation
- Conclusion



## History of Proceeding and Status (1 of 2)

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- Westelcom filed a Petition for Limited, Expedited Waiver of Section 61.26(a)(6) of the Commission's Rules on February 23, 2015 ("Petition").
- Public Notice of the Petition was issued on March 25, 2015 (WC Docket No. 15-69, DA 15-372) and was established as a "permit-but-disclose" proceeding for *ex parte* purposes.
- Westelcom filed an updated Petition on March 30, 2015, pursuant to the March 25, 2015, Joint Protective Order issued in this proceeding (DA 15-373).
- The only comments on the Petition were filed on April 24, 2015 by AT&T Services, Inc.; CTL's reply comments supported AT&T.
- Westelcom filed its reply comments on May 11, 2015.



## History of Proceeding and Status (2 of 2)

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- Numerous Westelcom Ex Parte presentations on issues in the 2<sup>nd</sup> quarter 2015, and February, March, and June 2016.
- February 18, 2016 – Letter of support sent to Chairman Wheeler from Senators Schumer and Gillibrand.

“ We write to urge the Federal Communications Commission (FCC) to grant a limited waiver petition for Westelcom Network, Inc. (Westelcom) with respect to 47 C.F.R. 61.26(a)(6) of the FCC rules which defines rural competitive local exchange carriers (CLECs).”
- March 22, 2016 – Letter of support sent to Chairman Wheeler from Congresswoman Stefanik.

“ I am writing to express my support for the petition for limited waiver submitted by Westelcom Network, Inc. (Westelcom) to the Federal Communications Commission (FCC) for the classification of Westlecom as a rural competitive local exchange carrier (CLEC) under the definition found in 47 C.F.R. 61.26(a)(6).”



## Current Situation

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- Prompt and rapid grant of waiver is needed
- Relief necessary to continue scaling with growth demands and current and future areas associated with:
  - Equipment
  - Network
  - Switching
  - Transport
  - Engineering
  - Customer Support
- Rate shock has negatively impacted ability of business to rationally transition



## Conclusion

- Need prompt approval of waiver.
- Company is being impacted.



# United States Senate

WASHINGTON, DC 20510

February 18, 2016

Mr. Tom Wheeler  
Chairman, Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Dear Chairman Wheeler,

We write to urge the Federal Communications Commission (FCC) to grant a limited waiver petition for Westelcom Network, Inc. (Westelcom) with respect to 47 C.F.R. § 61.26(a)(6) of the FCC's rules – which defines rural competitive local exchange carriers (CLECs). Located in the Adirondack North Country of New York, Westelcom services six counties across the region and has been a leader in the deployment of fiber-based broadband in this area. Through their broadband network investments, Westelcom has become a critical source of communication services to medical centers seeking to provide telehealth medicine.

The 2012 Census Bureau reclassified Watertown, New York — one of Westelcom's major service areas — and, for classifications purposes, included the Fort Drum military base within its population total. The inclusion of this military base increased the population associated with the Watertown area and caused it to be reclassified to an "urbanized" area. Under the new classification, Westelcom no longer meets the FCC's definition of a rural CLEC and is no longer eligible to use the "rural exemption" rate for its interstate switched access services. Of course, as anyone who has been there knows, Watertown is far from urban and I urge you to rectify this bureaucratic mistake as soon as possible.

As you know, the FCC's 2011 USF/ICC Transformation Order included a transition period for rural CLECs to phase down access service rates to ensure that rural carriers have an adequate amount of time to maintain their investments, preventing the possibility of a rapid reduction in revenue for those companies. Because of this transition period, rural CLECs have the ability to continue their investments in broadband networks to insure that the needs of these communities continue to be met.

The rapid reclassification of Watertown to an "urbanized area due to the Census Bureau change means that Westelcom will be denied the transition period provided to rural CLECs, and will result in an immediate 96 percent loss in access charge revenue for Westelcom. Without this revenue, Westelcom will not be able to continue its investments into the deployment of the fiber-based network serving specific rural areas of upstate New York such as Malone, Clayton, Elizabethtown, Ticonderoga, Plattsburgh, and Watertown, New York.

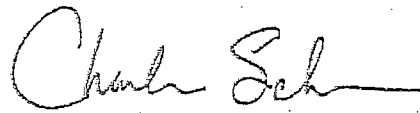
We are deeply concerned that the failure to act promptly in this matter will directly harm the rural areas served by Westelcom. It has been almost a year since Westelcom filed an application for a limited waiver requesting reconsideration for a reasonable transition period. It is crucially important that the health and service needs of the constituents in the Adirondack North County of New York are not compromised. The relief requested in this waiver petition is consistent with the Commission's goal of ensuring the deployment of robust broadband networks in rural America, including the sparsely-populated rural Adirondack North Country region in New York, and the advancement of rural telemedicine networks.

Thank you for your attention to this matter.

Sincerely,



Kirsten Gillibrand  
United States Senator



Chuck Schumer  
United States Senator

ELISE M. STEFANIK  
21ST DISTRICT, NEW YORK

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Congress of the United States  
House of Representatives  
Washington, DC 20515-3221

HOUSE ARMED SERVICES  
COMMITTEE  
SUBCOMMITTEE ON READINESS, VICE CHAIRMAN  
SUBCOMMITTEE ON MILITARY PERSONNEL  
SUBCOMMITTEE ON  
EMERGING THREATS AND CAPABILITIES  
HOUSE EDUCATION AND THE  
WORKFORCE COMMITTEE  
SUBCOMMITTEE ON WORKFORCE PROTECTIONS  
SUBCOMMITTEE ON HIGHER  
EDUCATION AND WORKFORCE TRAINING

March 22, 2016

Tom Wheeler, Chairman  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

Re: Written *Ex Parte* Presentation: Westelcom Network, Inc.'s Petition for Limited,  
Expedited Waiver of the Definition of a "Rural CLEC" as per §61.26(a)(6) of the  
Commission's Rules – WC Docket No. 15-69

Dear Chairman Wheeler,

I am writing to express my support for the petition for limited waiver submitted by Westelcom Network, Inc. (Westelcom) to the Federal Communications Commission (FCC) for the classification of Westelcom as a rural competitive local exchange carrier (CLEC) under the definition found in 47 C.F.R. §61.26(a)(6). Westelcom is a regional leader in fiber-based broadband networks providing services to 6 counties in the Adirondack North Country region of New York, reaching residents, critical community facilities, and healthcare facilities. Their investment in the North Country allows opportunities for business marketing, telemedicine technology, and education for our students.

The 21<sup>st</sup> Congressional District of New York (NY-21) is the third largest east of the Mississippi River and is predominantly classified as rural. It also includes Watertown, home of the Fort Drum military base. In 2012, Watertown was reclassified by the Census Bureau as an "urbanized area" due to the inclusion of the Fort Drum population and additional surrounding communities. Watertown's rural character remains, regardless of the Census Bureau's changes to administrative procedures determining an area's classification.

The "rural exemption" rule found in 47 C.F.R. §61.26(a)(6) effectively permits rural CLECs to charge higher switched access service rates to offset the higher delivery costs associated with being a rural CLEC. In 2011, the FCC issued their USF/ICC Transformation Order (the Transformation Order) to provide rural CLECs a transition period for these higher

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(518) 584-2324

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WATERTOWN, NY 13601  
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rates to phase down to zero. As a rural CLEC, Westelcom, has utilized these revenues to continue expanding and investing in broadband services in underserved rural areas.

Westelcom operated its business under rural CLEC status until Watertown was reclassified by the Census Bureau as an urbanized area. Following this reclassification, Westelcom lost its rural CLEC status. The company is now excluded from this phase down opportunity afforded to rural CLECs, resulting in an abrupt loss of access service revenue. It is my understanding that as a result, Westelcom has had to implement an austere budget and revise their original business plan, making it difficult to maintain, expand, or continue to improve their network.

Rural regions like NY-21 do not always have access to broadband networks, and without companies like Westelcom, broadband would be far less accessible. Many essential societal services now require broadband connectivity. The medical field, for example, increasingly relies on broadband access for communication, efficiency, and organization. Healthcare professionals now rely on broadband to transfer and move electronic data such as medical records, tests, and images.

Telemedicine has also proven an invaluable resource made possible by broadband connectivity, especially in regions where medical services are difficult to obtain. Many of my constituents have been positively impacted by telemedicine, from our aging population to our veterans. For example, many veterans rely on the Veterans Administration (VA) for all of their medical care. In NY-21, these veterans contend with geographic obstacles, and may spend over two hours traveling to and from these appointments – each way. Clinics administered by the VA are more accessible, but quite often are not staffed with full-time medical specialists or doctors. Some of these clinics now offer telemedicine. This availability reduces the burdens of travel, employs cost-saving measures for both veterans and the VA, and expands access to care.

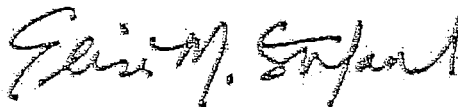
Telemedicine and engaging in medical information sharing are difficult or impossible to implement without broadband connectivity. Westelcom's work in the rural Adirondack North Country area has made them a leading provider of these communications services to our smaller health care facilities by interconnecting a significant number of hospitals, clinics and practices. Westelcom provides mission-critical services to two major telemedicine networks, more than 120 health care facilities, and eight regional hospitals in NY-21. This company is making investments in rural communities where larger broadband carriers appear unwilling to make the same commitment.

I was pleased to see a recent letter from your office responding to concerns Senator Robert Casey presented regarding a potential issue facing his state. The FCC's aspiration to "ensure that all Americans have access to vital communications services...[and] affordable

access to high-speed broadband"<sup>1</sup> is something I ardently support. Furthering these goals is vital to the North Country, and Westelcom's contribution advances this objective. Broadband expansion is vital to connecting with and competing in today's world, making its availability a necessity for our students, businesses, and greater community. In a district where several counties are completely devoid of broadband access, it would be devastating if a telecommunications company that is working to expand this network can no longer invest in our community.

I respect the FCC's duty to make decisions consistent with their standards and objectives; however, I ask that you give Westelcom's petition for limited waiver your most serious consideration. Approval of this petition would allow Westelcom the opportunity to continue providing services to my district while growing their network and expanding broadband access. Thank you for your attention to this matter.

Sincerely,



ELISE STEFANK  
Member of Congress

ES/rm

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<sup>1</sup> Letter from FCC Chairman Wheeler, 21 Jan. 2016, to Senator Robert Casey in response to Sen. Case's letter dated 20 Nov. 2015 regarding Mobile Citizen and Mobile Beacon.